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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,156	11/13/2001	Kelli H. Kennedy	10011462-1	5327

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EXAMINER

QIN, YIXING

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,156

Applicant(s)

KENNEDY ET AL.

Examiner

Yixing Qin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11-13-01</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

I. Claims 1, 6-9, 13, 15, 20-23 and 257-27 rejected under 35 U.S.C. 102(b) as being anticipated by Marbry et al (U.S. Patent No. 5,692,111).

1. **Claims 1, 9, 15, 23**

- Marbry discloses in column 3, lines 18-21 that a user wants to print a document and a list of printers is received (i.e. **transmitting a query and identifying at least one printer**)
- One can also see in Fig. 2a and 2b a list of available printers.
- Column 3, lines 28-35 discloses that a printer driver can be copied to a local location to the workstation (which can obviously be the hard drive of the workstation) from the server.
- The Examiner does see that claim 23 is directed more to the server side of the client-server network. However, the since driver request is transferred from the client to the server and a driver can be sent back to the client, the server would inherently contain code to process the querying and sending of the driver on the server side.

2. **Claims 6, 20 and 25**

- Again, one can also see in Fig. 2a and 2b of Marbry a list of available printers.

3. **Claims 7, 13, 21, and 26**

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- One can see in Fig. 2a and 2b of Marbry that there are various network servers (such as Lin2 – column 3, lines 24-26) which are listed. The name of the server is essentially a nameplate for a network address or IP address (i.e. similar to how websites such as google.com or Microsoft.com are associated with an IP address).
- Claim 13 is a essentially a combination of claims 6 and 7

4. Claims 8 and 22

- One can see in Fig. 2b of Marbry that a printer "hp" can be selected to be used.

5. Claim 27

- As explained in column 3, lines 22-24, the list of printers is shown in a network neighborhood window. The list of available printers/server is shown because the client computer is polling the attached network printers/servers. One can see in Fig. 2a and 2b of Marbry that at least one printer is identified.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

II. Claims 2, 3, 10, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marbry et al (U.S. Patent No. 5,692,111) in view of Weinberger et al (U.S. Patent No. 5,644,682).

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6. Claims 2, 10, and 16

- Marbry discloses in column 3, lines 54-57 that an application requests a print to a specific printer. However, Marbry does not disclose the use of a generic print driver. The secondary reference, Weinberger, discloses in Fig. 2 and column 4, lines 1-5 that their personal computer has a Universal Print Driver Dynamic Link Library (i.e. general print driver)
- Again, Marbry discloses the ability to choose printers in Figs. 2a and 2b. Also, column 3, lines 54-56 that an application is run to print to a networked printer. One skilled in the art knows that Windows applications give users the ability to choose a printer to print to, and thus would be obvious to launch an application (i.e. **print agent**) to transmit the query for the identification of at least one printer (which can simply be downloading a driver for the printer).

7. Claims 3 and 17

- Although not explicitly disclosed, PostScript is a well-known form of a general print driver and would be obvious to one of ordinary skill to use it.

III. Claims 4, 5, 11, 12, 18, 19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marbry et al (U.S. Patent No. 5,692,111) in view of Weinberger et al (U.S. Patent No. 5,644,682) and further in view of Gase (U.S. Patent No. 5,580,177).

8. Claims 4, 11, 18 and 24

- Marbry does not explicitly disclose the overwriting of a generic printer driver. As mentioned above, Weinberger discloses the use of a generic driver for printing. The tertiary reference, Gase, discloses in column 4, lines 17-23 the ability to overwrite a printer driver with a newer one. One would understand that the new printer driver would be used to process/convert data to be printed. The printer driver would read on as a **printer description file**.

9. Claims 5, 12 and 19

- As for the temporary overwriting of the driver, the Windows XP operating system already has a built in feature to allow the rollback of an updated driver to an older one if the new one is deemed to be incompatible. Please note that windows XP

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was officially released on October 25, 2001 but a test version of it was available a few months earlier (<http://www.microsoft.com/presspass/press/2001/jul01/07-02releasecandidatepr.mspx>). Also an explanation of the rollback driver feature of XP can be found on (www.microsoft.com/windowsxp/using/helpandsupport/learnmore/russel_july09.mspx). Both of these web pages were created before the filing date of this application.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yixing Qin whose telephone number is (571)272-7381.

The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Coles can be reached on (571)272-7402. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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